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June 2, 2005

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
South Carolina Public Service Commission  
Post Office Drawer 11649  
Columbia, SC 29211

Re: Application of Carolina Water Service, Inc.  
Docket No.: 2004-357-W/S

Dear Mr. Terreni:

Please allow this correspondence to serve as response to counsel for CWS's letter filed today with the Commission concerning the proposed order filed by The Office of Regulatory Staff ("ORS") on May 31, 2005 in the above referenced matter.

While ORS appreciates the comments of counsel for CWS, ORS endeavors to clarify the purpose of a proposed order. A proposed order is intended to be drafted from the point of view of the Commission, not from the point of view of a respective party. A proposed order takes into consideration **all** evidence presented in the case, not solely the evidence presented by a respective party.

A brief would offer a respective party's opinion and would be argumentative; a proposed order evaluates the evidence that is in the record and offers findings and conclusions of law that the Commission may determine based on that evidence. The Commission did not request briefs in this matter; the Commission requested proposed orders. Again, a proposed order is intended to be drafted from the **Commission's** point of view and that is what ORS did in its proposed order.

ORS does not seek to put forth **new** evidence in its proposed order nor is ORS attempting to impeach the testimony of its witness. By its proposed order, ORS seeks to

June 2, 2005

Page 2

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set forth findings and conclusions based on **all** the evidence that is in the record of the case as evaluated by the Commission, not by ORS. ORS does not believe that a proposed order based upon all the evidence elicited during the hearing and written from the perspective of the tribunal invokes an unlawful process. Furthermore, a proposed order is not evidence in the case. Therefore, ORS is not varying from its testimony given at the hearing as suggested by counsel for CWS.

With regard to counsel's comments in footnote 3 on pages 3 and 4 of his letter concerning ORS' characterization of the holding in *Hamm v. South Carolina Public Service Commission*, 309 S.C. 282, 422 S.E.2d 110 (1992), ORS recognizes that it erred its statement of the holding of that case. ORS apologizes to the Commission and to counsel for CWS for this error, and ORS appreciates counsel's pointing out this error. In that case, the Commission did not allow the upward financing costs and "market breaks" adjustments because those adjustments were tied to projected new stock issues and there was no evidence of an impending issuance of stock. The Supreme Court acknowledged the Commission's disallowance of those upward adjustments in its opinion, but, as correctly noted by counsel for CWS, the Supreme Court did not reverse the decision of the Commission for including financing costs and "market break" adjustments. Again, I apologize for this error in the proposed order with regard to the characterization of the Supreme Court's ruling.

Thank you for your consideration in this matter.

Sincerely,  
*Florence P. Belser*  
Florence P. Belser  
General Counsel

FPB/rng

cc: Mr. John M.S. Hoefer  
Charles H. Cook, Esquire  
Jessica J. O. King, Esquire